

# **Report to the Board of Adjustment**

Prepared by the Maricopa County Planning and Development Department

---

**Case: BA 2004004**                      Variance

Hearing Date:                      February 11, 2004

Agenda Item:                      2

Supervisory District:                      1

---

**Applicant/Owner:**                      Jason and Michelle Haase

**Request:**                      **Variances to Permit:**

- 1) An existing detached accessory structure (shed) to setback two feet two inches from the side (west) property line where 30 feet is the minimum required; and
- 2) An existing single-family residence to setback 22 feet from the side (east) property line where 30 feet is the minimum required in the Rural-43 zoning district.

**These variances are requested from the following Zoning Ordinance Section(s):**

- 1) Section 1106 Article 1106.2
- 2) Section 503 Article 503.1

**Site Location:**                      2150 W. Cheyenne Drive (Chandler Area)

**Site Size:**                      45,750 square feet (1.09 acres)

**Existing Zoning:**                      Rural-43

**Current Use:**                      Residential

**Citizen  
Support/Opposition:**                      None Known

**Staff  
Recommendation:**                      **Approve** with stipulations

## Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43  
North: Rural-43  
South: Rural-43  
East: Rural-43  
West: PAD-City of Chandler

## Existing On-Site and Surrounding Land Use:

2. On-site: Single-family residence  
North: Single-family residence  
South: Cheyenne Drive/Single-family residence  
East: Parcel 302-79-074C/Single-family residence (parcel 302-79-074B)  
West: Heatherbrook Square Subdivision (lots 40-45)

## Background:

3. **June 15, 1965:** The Trails End Estates subdivision was recorded. The subject site is located within this subdivision (lot 61A).
4. **1969:** According to Assessor records, the residence was constructed in 1970. A building permit **(20744-B)** was issued for a single-family residence. The exact date of construction of the residence is unknown.
5. **1974:** A building permit **(48356-B)** for an addition was issued although the date is unknown.
6. **1982:** A building permit **(82-3405)** for a fence was issued.
7. **February 15, 1989:** A building permit **(89057458)** for a carport/garage was approved.
8. **May 22, 2001:** The subject parcel was purchased by the current property owner.
9. **September 10, 2003:** A violation case **(V200301215)** was opened on the subject property.
10. **October 10, 2003:** As-built permit applications were submitted for a shed with attached shade structure **(B200312577)**.
11. **January 6, 2004:** The applicant applied for the subject variance requests.

## Findings:

12. **Maricopa County Department of Transportation:** No response at the time this report was written.
13. **Flood Control District:** No objection to the request (see attached memo).
14. **Environmental Services Department:** No objection to the request.

## Site Analysis:

15. The site is a rectangular shaped lot measuring approximately 295 feet in depth and 153.82 feet in width. The subject site is approximately 45,376 square feet or 1.04 acres in area. The subject site is accessed via a driveway abutting onto Cheyenne Drive. The north side of Cheyenne Drive dead-ends at the subject property and into a block wall. West of the wall is the Heatherbrook Square Subdivision, which is located within the City of Chandler. Currently, this block wall prevents direct access to Heatherbrook Square subdivision. Originally, when the Trails Ends Estates subdivision was recorded, the subject lot was a corner lot abutting the 94<sup>th</sup> street alignment. This alignment was later abandoned on November 16, 1981. The former right-of-way for 94<sup>th</sup> Street was then incorporated into the subject parcel.
16. The subject property is landscaped with scattered mature trees, bushes and grassy open land. The subject site has an irrigation and equestrian easement that encroaches 10 feet into the subject site along the north property line. Currently the site is developed with a residence, a ramada, a 3-car garage, a shed, horse stalls and a swimming pool.

Standard	Rural-43 (Zoning District)	Proposed Standard
Front Yard Setback	40-feet	53-feet
Rear Yard Setback for Accessory structures	10-feet**	11.66-feet
Side (west) Yard Setback for Accessory structures	3-feet	<b>2.16-feet</b>
Side (east) Yard Setback	30-feet	<b>22-feet</b>
Side (west) Yard Setback	30-feet	39-feet
Maximum Height	30-feet/2 stories	15-feet /1 story
Minimum Lot Area	43,560-square feet (1.0 acres)	45,120-square feet (1.04 acres)
Minimum Lot Width	145-feet	153.82-feet
Lot Coverage	15%	9.52%

\*Standards indicated in **bold** do not meet minimum base zoning standards.

\*\*Includes a 10-foot utility easement and equestrian trail.



**Photo 1:** Irrigation Canal along property lines.



**Photo 2:** View of rear yard looking northeast.



**Photo 3:** View of rear yard looking north along the west property line. (request #1)



**Photo 4:** View of east property line looking north from south property line. (request #2)



**Photo 5:** View of horse stalls in rear yard.



**Photo 6:** View of the existing separation between the residence and the ramada in which the applicant will attach these structures.

## Land Use Analysis:

17. The subject site is located in Trails End Estates, a 75-lot, 81-acre, single-family residential subdivision. This subdivision is located at the southwest corner of Elliot Road and Dobson Road in a county island within the City of Chandler. This subdivision was platted in 1965 and contains many lots that are substandard with regard to width and area. In addition, over time many of the original lots were split or combined with neighboring lots thus further exacerbating the problem. Approximately half of the land in the section where Trails End Estates is located, which is bounded by Elliot Road, Dobson Road, Warner Road and Price Road, is unincorporated County land. The other half was annexed by the City of Chandler in portions in the 1970s.
18. The area within the subdivision consists of single-family residences on large lots with numerous accessory structures and equestrian facilities. This subdivision was designed with 10-foot wide equestrian easements along the rear property lines of the internal lots. A rural/equestrian flavor is present throughout the development. Over the years, many accessory structures have been built in this subdivision, both with and without the benefit of permits.
19. The surrounding area is primarily residential in nature and is almost completely built out with single-family residences. Some commercial uses are located at the intersection of Elliot Road and Dobson across from Trails End Estates. A large Greek Orthodox Church is located in the subdivision along Dobson Road.
20. Approximately 30 variances have been heard within this development over the last 30 years. The majority of these variances were approved by the Board due to the substandard nature of the development. In addition, two blanket variances (**AA70-151** & **AA71-59**) were approved in the early 1970's that reduced side yard requirements from 30 feet to 20 feet for several lots within Trail End Estates. These blanket variances did not encompass the subject site.
21. Staff has reviewed several variances in this development and has listed the most pertinent cases below:
  - The most recent case that the Board heard for a property in Trails End Estates, case **BA2003149**, located at 2040 W. Cheyenne Drive, is six lots east of the subject site were multiple requests to permit: 1) an existing detached accessory building (shop) to setback 3.5 feet from the side (west) property line where 30 feet is the minimum required; 2) An existing detached accessory building (garden shop) to setback 3.25 feet from the side (west) property line where 30 feet is the minimum required; 3) A proposed addition to the existing detached accessory building (garden shop) to setback 3.25 feet from the side (west) property line where 30 feet is the minimum required; 4) An existing single-family residence to setback 19'-2' from the side (east) property line where 30 feet is the minimum required; and 5) an existing single-

family residence to setback 15'-5" from the side (west) property line where 30 feet is the minimum required. All five requests were approved on January 14, 2004.

- Case **BA2003117**, located at 2124 W. Cheyenne Drive, which is three lots east of the subject site, was a request to permit an existing detached accessory structure (hay pole barn) to setback 0.5 feet (6 inches) from the side (west) property line where 3 feet is the minimum required was approved on October 15, 2003.
- Case **BA2003027**, located at 2123 W. Shawnee Drive. The request was for a variance to permit an existing detached accessory structure (stable/shed) to setback 0 feet from the side (west) property line where 30 feet is the minimum required in the Rural-43 zoning district. This request was approved on May 14, 2003.
- **BA2000050**: (2142 W. Comstock Dr.) This case was for two variances including a lot coverage of 20.5% where 15% is the maximum allowed and a setback of 14 feet from the side (west) property line where 30 feet is the minimum required. These requests were subsequently approved by the Board.
- **BA 2000082**: (2124 W. Mesquite St.) This case was a request for a 7" side setback for an existing accessory structure where 20 feet is the minimum required. In this case, staff recommended denial of the request as relief had already been granted through case **AA71-59**, a blanket variance that reduced side yard setbacks from 30 feet to 20 feet. This request was approved by the Board.
- **BA 89-120**: (2106 W. Mesquite St.) This case was a request for an attached garage to setback 16 feet from the side (east) property line where 30 feet was the minimum required. This request was approved by the Board.
- **BA 82-82**: (2124 W. Comstock Dr.) This case was a request for an attached carport to setback 11 feet, four inches from the side (west) property line where 30 feet is the minimum required. This request was approved by the Board. The site of this request is located immediately to the northwest of the subject site.
- **BA 78-75**: (2123 W. Comstock Dr.) This case was a request for a 30-foot front (north) setback where 40 feet is the minimum required, a 27-foot side (west) setback where 30 feet is the minimum required and a 20-foot side (east) setback where 30 feet is the minimum required for a proposed single-family residence. These requests were also granted by the Board. This site of this request is immediately adjacent to the west of the subject site.



22. Aerial photo of Cheyenne Drive in Trails Ends Estates.



### Plan Analysis:

23. The applicant is requesting a variance to permit an existing detached accessory structure (shed) to setback 2.16 feet (26 inches) from the side (west) property line where 30 feet is the minimum required. The applicant applied for this request because a violation case (**V200301215**) was opened on his property in response to a complaint that was received by the Code Enforcement Division on September 10, 2003. The complaint, which was verified, was for "construction without a zoning clearance/building permit (shed)". A separate violation case on record (**V200200631**) in 2002 was issued for a business being run from a residential zoning district. This violation appears to have been remedied.

24. The applicant states that the building (shed) was on the subject property when they purchased the property and that it was unknown to the applicant that the structure was in violation. The shed is 24 feet in length and 14 feet in width with a shade structure. This structure is 15 feet in depth and 14 feet in length. The two structures attached will total approximately 490 square feet. The applicant is proposing to attach both structures as shown on the site plan so that there are no building separation issues that would require an additional variance.
25. The structure in question is similar to many of the accessory structures in Trails Ends Estates. Along Cheyenne Drive and on many of the lots in Trails End Estates, both homes and accessory structures encroach into the required side yard setbacks. Additionally, the 10-foot irrigation easement that encroaches into the applicant's rear yard prevents the applicant from placing any accessory structures along the rear property line. Recently there have been two additional variances approved on the same street, both of which resulted from violation cases. Over the years many variances, including two blanket variances, have been approved in Trails End Estates for side yard setbacks. Staff is recommending approval of the request due to the physical hardship involving the equestrian easement and the fact that the request would not have a negative impact on the surrounding area and is in keeping with the character of the area.
26. The second request is to permit an existing single-family residence to setback 22 feet from the side (east) property line where 30 feet is the minimum required. Records show that the existing residence was constructed in 1970. A building permit (**20744-B**) was issued for a single-family residence but the exact date is unknown. The applicant is requesting this variance to bring the subject property into conformance.
27. Staff noted that there is an existing strip of property between the subject site and the lot immediately to the east of the subject site. This strip of property is approximately 23 feet in width and is considered to be a separate parcel and is assigned an Assessor's Parcel Number (APN). This property is owned by the owners of the property to the east of the parcel. Staff had initially considered requesting the applicant to investigate purchasing some or all of this property to alleviate or eliminate the need for the requested variance. Further research by staff has determined that the property to the east may require this additional strip of property to maintain the necessary setbacks on their property. Combining this parcel, or a portion of it, with the subject site may result in the neighboring property becoming substandard with no relief other than a variance available.
28. In viewing the existing conditions on both lots it appears that the existing separation distance between the two residences is approximately 60 feet, which would typically be the minimum in the Rural-43 zoning district when taking both 30-foot setbacks into account. It should be noted that this existing separation distance includes the 23-foot wide strip of property as well. With this in mind, it appears that the setbacks between the two houses appear to meet the intent, if not the letter, of the Zoning Ordinance. At the time this report was written no objections to the request have been received and it appears as



though approval of this request will not have a negative impact on any surrounding property owners. Staff is recommending approval of this request because it appears that this variance request was not self-created and the existing conditions meet the intent of the Rural-43 zoning district.

**Recommendation:** (BA2004004)

29. Staff recommends that these variance requests be **approved** for the following reasons:

- There are physical hardships imposed on the property due to the presence of an irrigation easement and equestrian trail over the north 10 feet of the property.
- The requests do not conflict with the intent of the Zoning Ordinance.
- The requests are not out of character for the area.
- It does not appear as though approval of these requests will have a negative impact on any surrounding property owners.
- The relief requested is the minimum required necessary to provide the applicant with full use and enjoyment of the property.

Subject to the following stipulations:

- a) The applicant shall obtain as-built permits for the existing shed with covered area (490 square feet) within 90 days of the approval of the request.
- b) The shed (14' X 24') shall be attached to the neighboring shade structure (15' X 14').
- c) The applicant shall obtain as-built permits for the existing horse stalls (12' X 32') within 120 days of the approval of the request.
- d) The applicant shall obtain as-built permits for the existing ramada and shall be obtained with a walkway to the single-family residence within 90 days of approval of this request. The connection between these two structures shall meet the minimum distance required by plan review for a "walkway".
- e) The applicant shall obtain an as-built permit for the swimming pool.
- f) A revised site plan, drawn to scale, shall be submitted in compliance with staff's letter of January 20, 2004.

30. If the Board finds that a reasonable use of the property can be made without this variance, then this request should be denied.

cf

**Attachments:** Case Map BA2004004

Zoning Map  
Assessors Map  
Site Plan  
Application  
Supplemental Questionnaire  
Flood Control District Memo (1 page)